IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 23297 of 2004

Between:

NK Raju Conductor, E. 326308, S/o Durgaiah
R/o H. No. 9-87, Opp: SUCP School, 24 Area, Yellandu, Khammam District

..... PETITIONER

AND

1 The Regional Manager, APSRTC, Khammam Region Khammam district
2 The Depot Manager, APSRTC, Badrachalam Bus Depot, Khammam District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or Writ more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in issuing the proceedings No. 02/95(110)/99-BCM, dt 17-09-1999 as illegal, arbitrary and unjust and consequently set a side the proceedings No. 02/95(110)/99-BCM, dt 17-09-1999 issued by the 2nd respondent.

Counsel for the Petitioner:MR.G.RAVI MOHAN

Counsel for the Respondent Nos.1 & 2: SMT.P.RAJANI REDDY

The Court at the stage of admission, made the following :

ORDER:

Challenging the punishment imposed on the writ petitioner deferring one annual increment with cumulative effect, the present writ petition is filed.

The learned counsel appearing for the petitioner contended that without conducting any departmental enquiry, imposing major penalty is not sustainable and therefore prays to modify the major penalty into minor penalty.

On the other hand the learned Standing Counsel appearing for the respondents contended that considering the material available on record, the disciplinary authority passed the impugned proceedings and the same does not suffer from any serious legal infirmities so as to call for any interference by this Court.

It is not in dispute that certain irregularities have been committed by the writ petitioner with regard to the non-observance of the rule “issue and start” and collection of the fare and issue of tickets to the passengers. Accordingly, a charge memo has been issued to the petitioner calling upon him to give his explanation.

The petitioner submitted his explanation. Thereafter, the impugned proceedings have been passed. Admittedly, imposing penalty of stoppage of one increment with cumulative effect is a major penalty, which cannot be imposed unless preceded by a regular departmental enquiry. Admittedly, no departmental enquiry is conducted. Appeal filed by the petitioner before the appellate authority is also dismissed. Since the incident is alleged to have taken place in the year 1999 and as the prayer of the petitioner is that the punishment may be modified to that of minor penalty, it is not desirable to remit the case to the appellate authority.

Having regard to the facts and circumstances into consideration, the major penalty can be converted into a minor penalty. Accordingly stoppage of one increment "with cumulative effect" is modified to that of stoppage of one increment **"without cumulative effect"**.

The writ petition is accordingly disposed of. No order as to costs.

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15.12.2004

bsv

To

1 The Regional Manager, APSRTC, Khammam Region Khammam district
2 The Depot Manager, APSRTC, Badrachalam Bus Depot, Khammam District

3. 2 CD copies